

**BEFORE THE  
DIVISION OF MEDICAL QUALITY  
MEDICAL BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

**In the Matter of the Accusation/Petition  
to Revoke Probation Against:**

**Case No. D1-1999-94611**

**DONALD WILLIAM HERRMANN, M.D.**

**Physician's and Surgeon's  
Certificate #G 34040**

**Respondent.**

**DECISION AND ORDER**

The attached Stipulated Settlement and Disciplinary Order is hereby accepted and adopted as the Decision and Order by the Division of Medical Quality of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on September 10, 2007

IT IS SO ORDERED August 10, 2007

**MEDICAL BOARD OF CALIFORNIA**



**Cesar A. Aristeiguieta, M.D., F.A.C.E.P.  
Chair, Panel A  
Division of Medical Quality**

1 EDMUND G. BROWN JR., Attorney General  
of the State of California  
2 STEVEN V. ADLER  
Supervising Deputy Attorney General  
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9 Attorneys for Complainant

10 **BEFORE THE**  
11 **DIVISION OF MEDICAL QUALITY**  
12 **MEDICAL BOARD OF CALIFORNIA**  
13 **DEPARTMENT OF CONSUMER AFFAIRS**  
14 **STATE OF CALIFORNIA**

15 In the Matter of the Accusation/Petition to  
16 Revoke Probation Against:

17 DONALD W. HERRMANN, M.D.  
18 6930 Royal Hunt Ridge Drive  
19 Riverside, CA 92506

20 Physician's and Surgeon's Certificate  
21 No. G 34040

22 Respondent.

Case No. **D1-1999-94611**

OAH No. L-2006090361

**STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER**

23 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the  
24 above-entitled proceedings that the following matters are true:

25 PARTIES

26 1. David T. Thornton (Complainant) is the Executive Director of the Medical  
27 Board of California. He brought this action solely in his official capacity and is represented in  
28 this matter by Edmund G. Brown Jr., Attorney General of the State of California, by Mary Agnes  
Matyszewski, Deputy Attorney General.

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7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

## CULPABILITY

8. Respondent admits the truth of each and every charge and allegation in Accusation/Petition to Revoke Probation No. D1-1999-94611'.

9. Respondent agrees that his Physician's and Surgeon's Certificate is subject to discipline and he agrees to be bound by the Division's imposition of discipline as set forth in the Disciplinary Order below.

## CONTINGENCY

10. The parties understand and agree that facsimile copies of this Stipulated Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same force and effect as the originals.

11. This Stipulated Settlement and Disciplinary Order is intended by the parties herein to be an integrated writing representing the complete, final and exclusive embodiment of the agreement of the parties in the above-entitled matter.

12. This Stipulated Settlement and Disciplinary Order shall be subject to approval of the Division. The parties agree that this Stipulated Settlement and Disciplinary Order shall be submitted to the Division for its consideration in the above-entitled matter and, further, that the Division shall have a reasonable period of time in which to consider and act on this stipulation after receiving it. The parties also agree that the Division may communicate with the deputy attorney general regarding any issues or the terms of the Stipulated Settlement and Disciplinary Order which the Division may have. By signing this stipulation, respondent fully understands and agrees that she may not withdraw her agreement or seek to rescind this stipulation prior to the time the Division considers and acts upon it.

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1                   13.     In consideration of the foregoing admissions and stipulations, the parties  
2 agree that the Division may, without further notice or formal proceeding, issue and enter the  
3 following Disciplinary Order:

4                                   **DISCIPLINARY ORDER**

5                   IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No.  
6 G 34040 issued to Respondent Donald W. Herrmann, M.D. (Respondent) remains revoked, with  
7 revocation stayed and all prior terms and conditions remaining in effect pursuant to the  
8 Division's previous Order in Case No. 10-1999-94611, effective on or about May 29, 2002.  
9 Respondent's probation is hereby extended and he is placed on probation for an additional six (6)  
10 months. In addition to those previously ordered terms and conditions, respondent shall also be  
11 subject to the following terms and conditions:

12                   1.     EDUCATION COURSE   Within 60 calendar days of the effective date of  
13 this Decision, and on an annual basis thereafter, respondent shall submit to the Division or its  
14 designee for its prior approval educational program(s) or course(s) which shall not be less than  
15 15 hours per year, for each year of probation. The educational program(s) or course(s) shall be  
16 aimed at correcting any areas of deficient practice or knowledge and shall be Category I certified,  
17 limited to classroom, conference, or seminar settings. The educational program(s) or course(s)  
18 shall be at respondent's expense and shall be in addition to the Continuing Medical Education  
19 (CME) requirements for renewal of licensure. Following the completion of each course, the  
20 Division or its designee may administer an examination to test respondent's knowledge of the  
21 course. Respondent shall provide proof of attendance for 40 hours of continuing medical  
22 education of which 15 hours were in satisfaction of this condition.

23                   2.     MONITORING - PRACTICE   Within 30 calendar days of the effective  
24 date of this Decision, respondent shall submit to the Division or its designee for prior approval as  
25 a practice monitor(s), the name and qualifications of one or more licensed physicians and  
26 surgeons whose licenses are valid and in good standing, and who are preferably American Board  
27 of Medical Specialties (ABMS) certified. A monitor shall have no prior or current business or  
28 personal relationship with respondent, or other relationship that could reasonably be expected to

1 compromise the ability of the monitor to render fair and unbiased reports to the Division,  
2 including, but not limited to, any form of bartering, shall be in respondent's field of practice, and  
3 must agree to serve as respondent's monitor. Respondent shall pay all monitoring costs.

4           The Division or its designee shall provide the approved monitor with copies of the  
5 Decision(s) and Accusation(s), and a proposed monitoring plan. Within 15 calendar days of  
6 receipt of the Decision(s), Accusation(s), and proposed monitoring plan, the monitor shall submit  
7 a signed statement that the monitor has read the Decision(s) and Accusation(s), fully understands  
8 the role of a monitor, and agrees or disagrees with the proposed monitoring plan. If the monitor  
9 disagrees with the proposed monitoring plan, the monitor shall submit a revised monitoring plan  
10 with the signed statement.

11           Within 60 calendar days of the effective date of this Decision, and continuing  
12 throughout probation, respondent's practice shall be monitored by the approved monitor.  
13 Respondent shall make all records available for immediate inspection and copying on the  
14 premises by the monitor at all times during business hours, and shall retain the records for the  
15 entire term of probation.

16           The monitor(s) shall submit a quarterly written report to the Division or its  
17 designee which includes an evaluation of respondent's performance, indicating whether  
18 respondent's practices are within the standards of practice of medicine or billing, or both, and  
19 whether respondent is practicing medicine safely, billing appropriately or both.

20           It shall be the sole responsibility of respondent to ensure that the monitor submits  
21 the quarterly written reports to the Division or its designee within 10 calendar days after the end  
22 of the preceding quarter.

23           If the monitor resigns or is no longer available, respondent shall, within 5 calendar  
24 days of such resignation or unavailability, submit to the Division or its designee, for prior  
25 approval, the name and qualifications of a replacement monitor who will be assuming that  
26 responsibility within 15 calendar days. If respondent fails to obtain approval of a replacement  
27 monitor within 60 days of the resignation or unavailability of the monitor, respondent shall be  
28 suspended from the practice of medicine until a replacement monitor is approved and prepared to

1 assume immediate monitoring responsibility. Respondent shall cease the practice of medicine  
2 within 3 calendar days after being so notified by the Division or designee.

3 In lieu of a monitor, respondent may participate in a professional enhancement  
4 program equivalent to the one offered by the Physician Assessment and Clinical Education  
5 Program at the University of California, San Diego School of Medicine, that includes, at  
6 minimum, quarterly chart review, semi-annual practice assessment, and semi-annual review of  
7 professional growth and education. Respondent shall participate in the professional enhancement  
8 program at respondent's expense during the term of probation.

9 Failure to maintain all records, or to make all appropriate records available for  
10 immediate inspection and copying on the premises, or to comply with this condition as outlined  
11 above is a violation of probation.

12 3. NOTIFICATION Prior to engaging in the practice of medicine, the  
13 respondent shall provide a true copy of the Decision(s) and Accusation(s) to the Chief of Staff or  
14 the Chief Executive Officer at every hospital where privileges or membership are extended to  
15 respondent, at any other facility where respondent engages in the practice of medicine, including  
16 all physician and locum tenens registries or other similar agencies, and to the Chief Executive  
17 Officer at every insurance carrier which extends malpractice insurance coverage to respondent.  
18 Respondent shall submit proof of compliance to the Division or its designee within 15 calendar  
19 days.

20 This condition shall apply to any change(s) in hospitals, other facilities or  
21 insurance carrier.

22 4. SUPERVISION OF PHYSICIAN ASSISTANTS During probation,  
23 respondent is prohibited from supervising physician assistants.

24 5. OBEY ALL LAWS Respondent shall obey all federal, state and local  
25 laws, all rules governing the practice of medicine in California, and remain in full compliance  
26 with any court ordered criminal probation, payments and other orders.

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1                   6.     QUARTERLY DECLARATIONS Respondent shall submit quarterly  
2 declarations under penalty of perjury on forms provided by the Division, stating whether there  
3 has been compliance with all the conditions of probation. Respondent shall submit quarterly  
4 declarations not later than 10 calendar days after the end of the preceding quarter.

5                   7.     PROBATION UNIT COMPLIANCE Respondent shall comply with the  
6 Division's probation unit. Respondent shall, at all times, keep the Division informed of  
7 respondent's business and residence addresses. Changes of such addresses shall be immediately  
8 communicated in writing to the Division or its designee. Under no circumstances shall a post  
9 office box serve as an address of record, except as allowed by Business and Professions Code  
10 section 2021(b).

11                         Respondent shall not engage in the practice of medicine in respondent's place of  
12 residence. Respondent shall maintain a current and renewed California physician's and  
13 surgeon's license.

14                         Respondent shall immediately inform the Division, or its designee, in writing, of  
15 travel to any areas outside the jurisdiction of California which lasts, or is contemplated to last,  
16 more than 30 calendar days.

17                   8.     INTERVIEW WITH THE DIVISION, OR ITS DESIGNEE Respondent  
18 shall be available in person for interviews either at respondent's place of business or at the  
19 probation unit office, with the Division or its designee, upon request at various intervals, and  
20 either with or without prior notice throughout the term of probation.

21                   9.     RESIDING OR PRACTICING OUT-OF-STATE In the event respondent  
22 should leave the State of California to reside or to practice, respondent shall notify the Division  
23 or its designee in writing 30 calendar days prior to the dates of departure and return. Non-  
24 practice is defined as any period of time exceeding 30 calendar days in which respondent is not  
25 engaging in any activities defined in Sections 2051 and 2052 of the Business and Professions  
26 Code.

27                         All time spent in an intensive training program outside the State of California  
28 which has been approved by the Division or its designee shall be considered as time spent in the



1 practice of medicine within the State. A Board-ordered suspension of practice shall not be  
2 considered as a period of non-practice. Periods of temporary or permanent residence or practice  
3 outside California will not apply to the reduction of the probationary term. Periods of temporary  
4 or permanent residence or practice outside California will relieve respondent of the responsibility  
5 to comply with the probationary terms and conditions with the exception of this condition and  
6 the following terms and conditions of probation: Obey All Laws; Probation Unit Compliance;  
7 and Cost Recovery.

8 Respondent's license shall be automatically canceled if respondent's periods of  
9 temporary or permanent residence or practice outside California total two years. However,  
10 respondent's license shall not be canceled as long as respondent is residing and practicing  
11 medicine in another state of the United States and is on active probation with the medical  
12 licensing authority of that state, in which case the two year period shall begin on the date  
13 probation is completed or terminated in that state.

14 10. FAILURE TO PRACTICE MEDICINE - CALIFORNIA RESIDENT

15 In the event respondent resides in the State of California and for any reason  
16 respondent stops practicing medicine in California, respondent shall notify the Division or its  
17 designee in writing within 30 calendar days prior to the dates of non-practice and return to  
18 practice. Any period of non-practice within California, as defined in this condition, will not  
19 apply to the reduction of the probationary term and does not relieve respondent of the  
20 responsibility to comply with the terms and conditions of probation. Non-practice is defined as  
21 any period of time exceeding 30 calendar days in which respondent is not engaging in any  
22 activities defined in sections 2051 and 2052 of the Business and Professions Code.

23 All time spent in an intensive training program which has been approved by the  
24 Division or its designee shall be considered time spent in the practice of medicine. For purposes  
25 of this condition, non-practice due to a Board-ordered suspension or in compliance with any  
26 other condition of probation, shall not be considered a period of non-practice.

27 Respondent's license shall be automatically canceled if respondent resides in  
28 California and for a total of two years, fails to engage in California in any of the activities

1 described in Business and Professions Code sections 2051 and 2052.

2           11.     COMPLETION OF PROBATION Respondent shall comply with all  
3 financial obligations (e.g., cost recovery, restitution, probation costs) not later than 120 calendar  
4 days prior to the completion of probation. Upon successful completion of probation,  
5 respondent's certificate shall be fully restored.

6           12.     VIOLATION OF PROBATION Failure to fully comply with any term or  
7 condition of probation is a violation of probation. If respondent violates probation in any respect,  
8 the Division, after giving respondent notice and the opportunity to be heard, may revoke  
9 probation and carry out the disciplinary order that was stayed. If an Accusation, Petition to  
10 Revoke Probation, or an Interim Suspension Order is filed against respondent during probation,  
11 the Division shall have continuing jurisdiction until the matter is final, and the period of  
12 probation shall be extended until the matter is final.


13           13.     LICENSE SURRENDER Following the effective date of this Decision, if  
14 respondent ceases practicing due to retirement, health reasons or is otherwise unable to satisfy  
15 the terms and conditions of probation, respondent may request the voluntary surrender of  
16 respondent's license. The Division reserves the right to evaluate respondent's request and to  
17 exercise its discretion whether or not to grant the request, or to take any other action deemed  
18 appropriate and reasonable under the circumstances. Upon formal acceptance of the surrender,  
19 respondent shall within 15 calendar days deliver respondent's wallet and wall certificate to the  
20 Division or its designee and respondent shall no longer practice medicine. Respondent will no  
21 longer be subject to the terms and conditions of probation and the surrender of respondent's  
22 license shall be deemed disciplinary action. If respondent re-applies for a medical license, the  
23 application shall be treated as a petition for reinstatement of a revoked certificate.

24           14.     PROBATION MONITORING COSTS Respondent shall pay the costs of  
25 probation monitoring each and every year of probation, as designated by the Division, which may  
26 be adjusted on an annual basis. Such costs shall be payable to the Medical Board of California  
27 and delivered to the Division or its designee no later than January 31 of each calendar year.  
28 Failure to pay costs within 30 calendar days of the due date is a violation of probation.

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Troy A. Schell. I understand the stipulation and the effect it will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Division.

DATED: 4/27/07

  
DONALD W. HERRMANN, M.D.  
Respondent

I have read and fully discussed with Respondent Donald W. Herrmann, M.D. the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: 5/4/07

  
TROY A. SCHELL  
Attorney for Respondent

ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Division.

DATED: 7/5/07

EDMUND G. BROWN JR., Attorney General  
of the State of California

STEVE V. ADLER  
Supervising Deputy Attorney General

  
MARY AGNES MATYSZEWSKI  
Deputy Attorney General  
Attorneys for Complainant

**Exhibit A**

**Accusation/Petition to Revoke Probation**

FILED  
STATE OF CALIFORNIA

MEDICAL BOARD OF CALIFORNIA

SACRAMENTO August 29 2006  
BY William T. Bryan ANALYST

1 BILL LOCKYER, Attorney General  
of the State of California  
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7 Attorneys for Complainant

8  
9 **BEFORE THE**  
**DIVISION OF MEDICAL QUALITY**  
**MEDICAL BOARD OF CALIFORNIA**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation and Petition to  
Revoke Probation Against:

Case No. D1-1999-94611

14 DONALD W. HERRMANN, M.D.  
6930 Royal Hunt Ridge Drive  
15 Riverside, CA 92506

OAH No.

**ACCUSATION AND PETITION  
TO REVOKE PROBATION**

16 Physician's and Surgeon's Certificate No.  
G 34040

17  
18 Respondent.

19  
20 Complainant alleges: PARTIES

21 1. David T. Thornton (Complainant) brings this Accusation and Petition to  
22 Revoke Probation solely in his official capacity as the Executive Director of the Medical Board  
23 of California.

24 2. On or about May 25, 1977, the Medical Board of California issued  
25 Physician's and Surgeon's Certificate Number G 34040 to DONALD W. HERRMANN, M.D.  
26 (Respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times  
27 relevant to the charges brought herein and will expire on June 30, 2007, unless renewed.

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JURISDICTION

3. This Accusation and Petition to Revoke Probation is brought before the Division of Medical Quality (Division) for the Medical Board of California, Department of Consumer Affairs, under the authority of the following laws and the Order in Case No. 10-1999-94611. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2227 of the Code states:

"(a) A licensee whose matter has been heard by an administrative law judge of the Medical Quality Hearing Panel as designated in Section 11371 of the Government Code, or whose default has been entered, and who is found guilty, or who has entered into a stipulation for disciplinary action with the division, may, in accordance with the provisions of this chapter:

"(1) Have his or her license revoked upon order of the division.

"(2) Have his or her right to practice suspended for a period not to exceed one year upon order of the division.

"(3) Be placed on probation and be required to pay the costs of probation monitoring upon order of the division.

"(4) Be publicly reprimanded by the division.

"(5) Have any other action taken in relation to discipline as part of an order of probation, as the division or an administrative law judge may deem proper.

"(b) Any matter heard pursuant to subdivision (a), except for warning letters, medical review or advisory conferences, professional competency examinations, continuing education activities, and cost reimbursement associated therewith that are agreed to with the division and successfully completed by the licensee, or other matters made confidential or privileged by existing law, is deemed public, and shall be made available to the public by the board pursuant to Section 803.1."

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1                   5.       Section 2234 of the Code states:

2                   "The Division of Medical Quality shall take action against any licensee who  
3 is charged with unprofessional conduct. In addition to other provisions of this  
4 article, unprofessional conduct includes, but is not limited to, the following:

5                   "(a) Violating or attempting to violate, directly or indirectly, assisting in or  
6 abetting the violation of, or conspiring to violate any provision of this chapter  
7 [Chapter 5, the Medical Practice Act].

8                   "(b) Gross negligence.

9                   "(c) Repeated negligent acts. To be repeated, there must be two or more  
10 negligent acts or omissions. An initial negligent act or omission followed by a  
11 separate and distinct departure from the applicable standard of care shall constitute  
12 repeated negligent acts.

13                   "(1) An initial negligent diagnosis followed by an act or omission  
14 medically appropriate for that negligent diagnosis of the patient shall constitute a  
15 single negligent act.

16                   "(2) When the standard of care requires a change in the diagnosis, act, or  
17 omission that constitutes the negligent act described in paragraph (1), including,  
18 but not limited to, a reevaluation of the diagnosis or a change in treatment, and the  
19 licensee's conduct departs from the applicable standard of care, each departure  
20 constitutes a separate and distinct breach of the standard of care.

21                   "(d) Incompetence.

22                   "(e) The commission of any act involving dishonesty or corruption which  
23 is substantially related to the qualifications, functions, or duties of a physician and  
24 surgeon.

25                   "(f) Any action or conduct which would have warranted the denial of a  
26 certificate.

27                   "..."

28       ///

1 CAUSE FOR DISCIPLINE

2 (Gross Negligence, Repeated Negligent Acts)

3 6. Respondent is subject to disciplinary action under Sections 2227  
4 and 2234, as defined by Sections 2234(b) and (c) of the Code, in that respondent was  
5 grossly and repeatedly negligent in his care and treatment of the patient listed below. The  
6 circumstances are as follows:

7 A. On or about July 15, 2004, patient Juanita M., a 75-year-old woman,  
8 was admitted to Desert Valley Hospital for cough and shortness of breath. Her  
9 prior medical history was significant for breast cancer which was treated by L  
10 radical mastectomy without further treatment other than tamoxifen. She was a  
11 smoker, but was not previously known to have cardiopulmonary disease.

12 B. Respondent was the admitting physician. In his History and  
13 Physical he noted patient Juanita M. had bilateral community acquired pneumonia  
14 and chronic obstructive pulmonary disease with exacerbation. He noted that the  
15 labs indicated the patient had an arterial blood gas on 4L of oxygen that showed a  
16 pH of 7.44, pCO2 of 37 and pO2 of 52. His plan included aerosolized  
17 bronchodilators, IV steroids, IV antibiotics, and continued aerosolized mask in  
18 light of the patient's oxygenation problems.

19 C. The patient did not improve over the first 24 hours and required  
20 non-invasive ventilatory assistance with Bi-PAP and 100% oxygen. The patient  
21 was also given IV Lasix. On or about July 20, 2004, the patient was placed back  
22 on a non-breathing mask and changed to oral steroids. She developed a yeast  
23 infection for which respondent ordered nystatin suspension.

24 D. A high resolution CT scan performed on or about July 23, 2004,  
25 showed patchy infiltrates and areas of honeycombing. Respondent believed the  
26 findings were consistent with pre-existing interstitial lung disease with  
27 superimposed pneumonia.

28 ///



1 E. A CT pulmonary angiogram performed on or about July 25, 2004,  
2 showed diffuse interstitial infiltrates and patchy bibasilar consolidation, but was  
3 negative for pulmonary embolism.

4 F. The patient underwent a cardiology consult on or about July 26,  
5 2004. The cardiologist noted the presence of congestive heart failure (CHF) and  
6 recommended the addition of a beta-blocker and angiotensin converting enzyme  
7 inhibitor be added to the patient's regimen. An echocardiogram showed diastolic  
8 dysfunction and a moderate increase in right sided pressures. The patient  
9 continued to have severe hypoxemia, with an ABG on 15 L/min of O2 showing a  
10 pH of 7.48, pCO2 of 38 and pO2 of 59, as noted on or about July 27, 2004.

11 G. On or about July 29, 2004, the patient developed a Stage II  
12 decubitus ulcer. She also developed hyperglycemia exacerbated by the high dose  
13 steroid treatment for which she received a sliding dose insulin treatment.

14 H. The patient also underwent a pulmonary consultation and a  
15 diagnosis of pulmonary fibrosis with superimposed pneumonia was considered.  
16 The possibility of a lung biopsy was discussed with a thoracic surgeon. Initially  
17 the patient was to undergo a lung biopsy with video-assisted surgery, but on or  
18 about July 31, 2004, it was thought the patient's condition caused her to be a high  
19 risk for the procedure and that it should be performed at a tertiary care facility.

20 I. Respondent noted the patient desaturated very easily, with little  
21 exertion, repeatedly during her hospital stay. When respondent contacted Loma  
22 Linda University Medical Center to transfer the patient, he was informed there  
23 were no beds available. Respondent then made the determination that the patient  
24 should be discharged from Desert Valley Hospital, as she had "improved quite a  
25 bit" and would be followed as an outpatient.

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1 J. On or about August 3, 2004, respondent discharged the patient.  
2 During her stay Juanita M. continued to require treatment with antibiotics, steroids,  
3 bronchodilators, and supplemental oxygen. She underwent one week of  
4 mechanical ventilation, treatment for sepsis, pneumonia, diabetes and pressure  
5 sores. At the time of discharge, the patient's decubitus ulcers, her pneumonia, her  
6 cardiac condition, and her hyperglycemia had not resolved.

7 K. Respondent's discharge instructions were "Prednisone 40 mg q.d.;  
8 Furosemide 20 mg q.d.; Vitamin D 400 units q.d.; KCl 10 mEq q.d.; Increase  
9 calcium citrate tablets to 600 mg 2 tablets q.d.; oxygen 7 to 8 liters per minute via  
10 Oxymerizer." The patient was also to have an appointment with respondent on  
11 August 17, 2004, and to schedule one with a primary care physician.

12 L. The patient was admitted to Loma Linda University Medical Center  
13 on or about August 16, 2004, with complaints of increasing shortness of breath.

14 8. Respondent has committed acts or omissions constituting gross  
15 negligence and repeated negligent acts during his care and treatment of this patient in  
16 violation of Sections 2234(b) and (c) in that:

17 A. Respondent discharged a high risk patient who still required  
18 relatively high-flow oxygen (5-10 L/min) from Desert Valley Hospital.

19 B. Respondent's discharge planning of this high risk patient who  
20 developed several new problems while hospitalized was inadequate.

#### 21 **DISCIPLINE CONSIDERATIONS**

22 9. To determine the degree of discipline, if any, to be imposed on  
23 Respondent, Complainant alleges that on or about May 29, 2002, in a prior disciplinary  
24 action entitled, "In the Matter of the Accusation Against Donald W. Herrmann, M.D.,"  
25 before the Medical Board of California, in Case Number 10-2000-105679, respondent's  
26 license was revoked, with revocation stayed and respondent was placed on five (5) years of  
27 probation for allegations of gross negligence, repeated negligent acts, incompetence, and  
28 failure to maintain adequate and accurate records, in violation of Code sections 2234(b),

1 2234(c), 2234(d) and 2266, respectively. In addition, respondent was permanently  
2 enjoined from practicing Emergency Medicine and Critical Care Medicine, and was  
3 required to successfully complete both the full Physician Assessment and Clinical  
4 Evaluation ("PACE") program and the PACE prescribing practices course, offered at the  
5 University of California, San Diego School of Medicine. That decision is now final and is  
6 incorporated by reference as if fully set forth.

7 PRAYER

8 WHEREFORE, Complainant requests that a hearing be held on the matters  
9 herein alleged, and that following the hearing, the Division of Medical Quality issue a  
10 decision:

- 11 1. Revoking or suspending Physician's and Surgeon's Certificate  
12 Number G 34040, issued to Donald W. Herrmann, M.D.;
- 13 2. Revoking, suspending or denying approval of Donald W.  
14 Herrmann, M.D.'s authority to supervise physician's assistants, pursuant to section 3527 of  
15 the Code;
- 16 3. Ordering Donald W. Herrmann, M.D. if placed on probation, to pay  
17 the Division of Medical Quality the costs of probation monitoring; and
- 18 4. Taking such other and further action as deemed necessary and  
19 proper.

20 DATED: August 29, 2006

21  
22 

23 DAVID T. THORNTON  
24 Executive Director  
25 Medical Board of California  
26 State of California  
27 Complainant  
28